

# MANDATE

S.D.N.Y. – N.Y.C.  
17-cr-548  
Furman, J.

## United States Court of Appeals FOR THE SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 3<sup>rd</sup> day of May, two thousand twenty-two.

Present:

Denny Chin,  
Richard J. Sullivan,  
Joseph F. Bianco,  
*Circuit Judges.*

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: Jun 21 2022
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United States of America,

*Appellee,*

v.

Joshua Adam Schulte,

21-3113 (L), 21-3116 (Con)  
21-3117 (Con), 21-3118 (Con)  
21-3120 (Con), 21-3122 (Con)  
21-3124 (Con), 21-3125 (Con)

*Defendant-Appellant.*

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The government moves to dismiss the appeals docketed under 21-3116 and 21-3125.<sup>1</sup> Appellant, proceeding pro se, moves for a stay pending appeal in 21-3118<sup>2</sup> to stop the government from recording telephonic discovery conferences, and for an injunction pending appeal in 21-3124<sup>3</sup> to

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<sup>1</sup> The parties mistakenly refer to the appeal challenging the denial of internet access as the subject of 21-3124; however, that challenge is the subject of 21-3125. See No. 21-3113 (L), Doc. No. 27 (Notice of Criminal Appeal) at 1, 3.

<sup>2</sup> The parties mistakenly refer to the appeal challenging the government's recording of telephonic discovery conferences as the subject of 21-3122; however, that challenge is the subject of 21-3118. See No. 21-3113 (L), Doc. No. 11 (Notice of Criminal Appeal) at 1, 3.

<sup>3</sup> The parties mistakenly refer to the appeal challenging Appellant's conditions of confinement as the subject of 21-3117; however, that challenge is the subject of 21-3124. See No. 21-3113 (L), Doc. No. 24 (Notice of Criminal Appeal) at 1, 3.

alter certain conditions of confinement. Appellant also moves for leave to file late replies and for an injunction ordering the government to serve all documents by hand and ordering his standby counsel in the district court to file and serve documents in this Court.<sup>4</sup>

Upon due consideration, it is hereby ORDERED that Appellant's motion for leave to file late replies is GRANTED, but his motion for an injunction ordering the government to serve all documents by hand and ordering standby counsel to assist Appellant in this Court is DENIED.

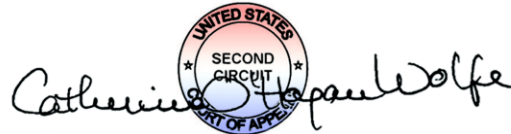
It is further ORDERED that the government's motion is GRANTED and the appeals docketed under 21-3116 and 21-3125 are DISMISSED; the Court finds that it lacks jurisdiction over these appeals because a final order has not been issued by the district court as contemplated by 28 U.S.C. § 1291. *See Petrello v. White*, 533 F.3d 110, 113 (2d Cir. 2008). For the same reason, the Court sua sponte DISMISSES the appeals docketed under 21-3117, 21-3120, and 21-3122.

It is further ORDERED that Appellant's motions for a stay pending appeal in 21-3118 and for an injunction pending appeal in 21-3124 are DENIED because he has failed to meet the requisite standard. *See LaRouche v. Kezer*, 20 F.3d 68, 72 (2d Cir. 1994).

The appeals docketed under 21-3118 (concerning the government's recording of telephonic discovery conferences) and 21-3124 (concerning conditions of confinement) will proceed in the ordinary course. Because Appellant has already filed his briefs for these appeals,<sup>5</sup> the government is directed to file its scheduling notifications within 14 days of the date of entry of this order pursuant to Second Circuit Local Rule 31.2.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court



A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit



<sup>4</sup> The docket sheet shows that a motion "to preclude government brief and schedule hearing" is also pending. No. 21-3113 (L), Doc. No. 132. However, that motion was already denied under docket number 21-2528. *See* No. 21-2528 (L), Doc. No. 165.

<sup>5</sup> Appellant's briefs for these appeals were filed under the wrong docket numbers. *See* No. 21-3113 (L), Doc. Nos. 140 (Br.) (challenging, under docket number 21-3117, certain conditions of confinement), 141 (Br.) (challenging, under docket number 21-3122, the government's recording of telephonic discovery conferences).